

SUBCOMMITTEE NO. 3

Agenda

Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Denise Ducheny

Senator Wesley Chesbro
Senator Dave Cox



April 3rd, 2006

10:00 AM

Room 4203
(John L. Burton Hearing Room)

(Diane Van Maren)

| <u>Item</u> | <u>Department</u> |
|--------------------|---|
| 4300 | Department of Developmental Services—<i>Selected Issues</i> <ul style="list-style-type: none">• <i>State Developmental Centers (Selected Issues)</i>• <i>Community-Based Services (Selected Issues)</i> |

PLEASE NOTE:

Only those items contained in this agenda will be discussed at this hearing. Please see the Senate File for dates and times of subsequent hearings.

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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Item 4300 Department of Developmental Services

A. OVERALL BACKGROUND

Purpose and Description of Department

The Department of Developmental Services (DDS) administers services in the community through 21 Regional Centers (RC) and in state Developmental Centers (DC) for persons with developmental disabilities as defined by the provisions of the Lanterman Developmental Disabilities Services Act. **To be eligible for services, the disability must begin before the consumer's 18th birthday, be expected to continue indefinitely, present a significant disability and be attributable to certain medical conditions, such as mental retardation, autism, and cerebral palsy.**

The purpose of the department is to: (1) ensure that individuals receive needed services; (2) ensure the optimal health, safety, and well-being of individuals served in the developmental disabilities system; (3) ensure that services provided by vendors, Regional Centers and the Developmental Centers are of high quality; (4) ensure the availability of a comprehensive array of appropriate services and supports to meet the needs of consumers and their families; (5) reduce the incidence and severity of developmental disabilities through the provision of appropriate prevention and early intervention service; and (6) ensure the services and supports are cost-effective for the state.

Description and Characteristics of Consumers Served

The department annually produces a Fact Book which contains pertinent data about persons served by the department. The eighth annual edition, released in November 2005 contains some interesting data, including the following facts:

Department of Developmental Services—Demographics Data from 2004

| <i>Table 1</i> | Number of | Percent of | <i>Table 2</i> | Number of | Percent of Total |
|-----------------------|-----------------------|--------------------|---|-----------------------|-------------------------|
| Age | Persons | Total | Residence Type | Persons | in Residence |
| Birth to 2 Yrs. | 22,601 | 11.2% | Own Home-Parent | 144,023 | 71.6 % |
| 3 to 13 Yrs. | 57,793 | 28.7% | Community Care | 26,442 | 13.1% |
| 14 to 21 Yrs. | 33,697 | 16.8% | Independent Living /Supported Living | 17,333 | 8.7% |
| 22 to 31 Yrs. | 28,365 | 14.1% | Skilled Nursing/ICF | 8,783 | 4.4% |
| 32 to 41 Yrs. | 22,812 | 11.3% | Developmental Center | 3,231 | 1.6% |
| 42 to 51 Yrs. | 20,298 | 10.1% | Other | 1,239 | 0.6% |
| 52 to 61 Yrs. | 10,635 | 5.3% | | | |
| 62 and Older | 4,850 | 2.4% | | | |
| <i>Totals</i> | <i>201,051</i> | <i>100%</i> | | <i>201,051</i> | <i>100%</i> |

Summary of Governor's Proposed Budget Overall

The budget proposes total expenditures of \$3.8 billion (\$2.4 billion General Fund), for a *net* increase of \$208.7 million (\$155.6 million General Fund) over the revised current year. The proposed augmentation represents an increase of 5.7 percent over the revised current year.

Of the total amount, \$3.1 billion (\$2 billion General Fund) is for services provided in the community, \$706.6 million (\$383.4 million General Fund) is for support of the state Developmental Centers, and \$37.3 million (\$24.7 million General Fund) is for state headquarters administration.

Summary of Department of Developmental Services Proposed Budget

Summary of Expenditures

| (dollars in thousands) | 2005-06 | 2006-07 | \$ Change | % Change |
|----------------------------|-------------|-------------|-----------|----------|
| Program Source | | | | |
| Community Services Program | \$2,882,730 | \$3,098,476 | \$215,746 | 7.5 |
| Developmental Centers | \$713,295 | \$706,611 | -\$6,684 | -0.9 |
| State Administration | \$37,659 | \$37,324 | -\$335 | -0.9 |
| Total, Program Source | \$3,633,684 | \$3,842,411 | \$208,727 | 5.7 |

Funding Source

| | | | | |
|---|-------------|-------------|-----------|-------|
| General Fund | \$2,250,684 | \$2,406,249 | \$155,565 | 6.9 |
| Federal Funds | \$56,377 | \$54,943 | -\$1,434 | -2.5 |
| Program Development Fund | \$2,000 | \$2,003 | \$3 | 0.2 |
| Lottery Education Fund | \$489 | \$489 | 0 | 0 |
| Developmental Disabilities Services | \$232 | \$40 | -\$192 | -82.8 |
| Reimbursements: including Medicaid Waiver, Title XX federal block grant and Targeted Case Management | \$1,323,902 | \$1,378,687 | \$54,785 | 4.1 |
| Total Expenditures | \$3,633,684 | \$3,842,411 | \$208,727 | 5.7 |

A. ITEMS FOR VOTE ONLY

1. Continuation of Habilitation Services Program Implementation & Monitoring

Issue. The DDS is requesting to permanently establish a **Community Program Specialist II position for expenditures of \$87,000 (\$70,000 General Fund)**. The purpose of this position is to continue implementation and monitoring of habilitation services provided to consumers with developmental disabilities and to ensure that services are of high quality.

Specifically, the position will do the following:

- Providing consultation and technical assistance to 450 habilitation service providers in the areas of time studies, wage and hour requirements for both state and federal Commission on Accreditation of Rehabilitation Facilities (CARF) Accreditation, setting piece rates, job coaching, grant writing, and marketing;
- Monitoring service utilization and caseload accountability;
- Refining and maintaining habilitation services best practices protocols and training materials, as needed, for consumers and families, providers and Regional Center staff;
- Overseeing fiscal management and federal billing; and
- Coordinating with the 21 Regional Centers regarding habilitation services protocols and monitoring requirements.

Additional Background—Habilitation Services Program. Effective July 1, 2004, the Habilitation Program was transferred to the DDS from the Department of Rehabilitation. The Habilitation Services Program consists of (1) the Work Activity Programs (WAP) and Supported Employment Programs (SEP), both of which are entitlement services for people with developmental disabilities.

The DDS received a total of 14 positions to operate the program when the Department of Rehabilitation had used 29 staff (these positions were eliminated). The DDS was able to administer the Habilitation Services Program with fewer staff due to their ability to automate processes that DOR performed manually.

Included in the 14 positions the DDS received was a two-year limited-term attorney for legal assistance in writing and implementing regulations. However, the regulations were in process and the administration of the program needed less legal assistance and more development and implementation of monitoring processes. **As such, the attorney position was redirected to a Community Program Specialist II position to develop, manage and monitor quality assurance functions. This is the position which is being requested to be permanently established.**

In the transfer of the program, DDS developed and implemented a new billing and payment methodology for habilitation services. This included measuring outcomes from the delivery of habilitation services. **The ongoing implementation of this process is necessary to meet statutory and regulatory requirements.**

Subcommittee Staff Recommendation. It is recommended to approve as proposed. No issues have been raised.

B. ITEMS FOR DISCUSSION

State Developmental Centers

Summary of Background, Funding and Resident Caseload

Background. State Developmental Centers (DCs) are licensed and federally certified as Medicaid providers via the California Department of Health Services. They provide direct services which include the care and supervision of all residents on a 24-hour basis, supplemented with appropriate medical and dental care, health maintenance activities, assistance with activities of daily living and training. Education programs at the DCs are also the responsibility of the DDS.

The DDS operates five Developmental Centers (DCs)—Agnews, Fairview, Lanterman, Porterville and Sonoma. Porterville is unique in that it provides forensic services in a secure setting. In addition, the department leases Sierra Vista, a 54-bed facility located in Yuba City, and Canyon Springs, a 63-bed facility located in Cathedral City. Both facilities provide services to individuals with severe behavioral challenges.

Overall Summary of Funding and Resident Caseload. The budget proposes expenditures of \$706.6 million (\$383.7 million General Fund), excluding state Headquarters' support, to serve 2,797 residents who reside in the DC system. This reflects a caseload decrease of 229 residents or 7.6 percent, and a net reduction of \$6.7 million (\$3.6 million General Fund) as compared to the *revised* current year.

The net reduction of \$6.7 million is *primarily* the result of a reduction in state staff due to the (1) continuing decline in resident population overall, (2) the pending closure of Agnews Developmental Center, and (3) an increase to establish an intensive behavioral treatment residence pilot project at Porterville Developmental Center.

According to recent DDS data, the average cost per person residing at a DC is about \$236,000 annually. This figure varies across the DCs due to differences associated with resident medical and behavioral needs, overall resident population size, staffing requirements, fixed facility costs and related factors. In addition, due to the level of fixed costs at the DCs and the need to maintain minimum staffing levels, the cost per resident will continue to increase as the total resident population decreases.

The table below displays the continued transition from the DC model of providing services to a community-based model for providing services.

| Developmental Center Residents (<i>Observed</i>) | | | |
|---|---------------------|---|-----------------------------|
| Fiscal Year | DC Residents | Yearly Difference in Residents | Percent Decrease |
| 2000-01 | 3,723 | | |
| 2001-02 | 3,628 | -95 | -2.6% |
| 2002-03 | 3,537 | -91 | -2.5% |
| 2003-04 | 3,296 | -241 | -6.8% |
| 2004-05 | 3,096 | -200 | -6.1% |
| 2005-06 (Estimated) | 3,026 | -70 | -2.3% |
| 2006-07 (Proposed) | 2,797 | -229 | -8.1% |

1. Developmental Centers—Baseline Adjustments

Issue. The budget proposes total expenditures of \$706.6 million (\$383.7 million General Fund) to serve 2,797 residents who reside in the DC system. This reflects a caseload decrease of 229 residents or 7.6 percent, and a net reduction of \$6.7 million (\$3.6 million General Fund) as compared to the *revised* current year.

The key baseline adjustments are as follows:

- A reduction of \$17.3 million (\$9.6 million General Fund) due to projected caseload decreases (from 3,106 to 2,797 residents as of June 30, 2007). Of this amount, \$13.4 million is attributable to a reduction of 175 Level-of-Care positions and \$3.9 million is attributable to a reduction of 67 Non-Level-of-Care positions.
- An adjustment of Medi-Cal eligibility rate from 86.43 percent of residents to 85.23 percent of residents results in an increase of \$3.8 million General Fund and a decrease of \$3.8 million in reimbursements (federal funds received from the DHS for Medi-Cal).
- A decrease of \$4.9 million (General Fund) which was a one-time only adjustment provided in 2005-06 to aggressively pursue settlement of existing worker's compensation claims through the compromise and release process thereby reducing the DDS' long-term liability.

The baseline adjustments for the DCs will be revised at the Governor's May Revision to reflect caseload, operating expenses and any adjustments related to the Agnews Developmental Center closure.

Subcommittee Staff Recommendation. It is recommended to adopt the proposed *baseline estimate* for the DCs, pending the receipt of the Governor's May Revision. All significant policy issues are discussed as individual issues below.

Questions. The Subcommittee has requested the DDS to respond to the following question.

1. **DDS,** Please provide a brief summary of the *baseline estimate* for the Developmental Centers.

2. Porterville Intensive Behavioral Treatment Residence

Issue. The DDS is requesting an increase of \$1.225 million (General Fund) and 14 positions at the Porterville DC to staff a new, self-contained Intensive Behavioral Treatment Residence (Residence) *within* the secure treatment area.

This Residence would provide secure separation for up to 30 consumers who have been identified as the most dangerous to the rest of the secure treatment population. These consumers have extremely challenging and dangerous behaviors and generally require close supervision, including one to one staffing. The residence would provide the consumers an intense infusion of therapies.

There are two components to the proposal. First, 13 positions would be used to staff the Residence. The 13 positions would include: (1) ten Level-Of-Care Nursing, (2) a Psychologist, (3) a Social Worker, and (4) a Rehabilitation Therapist. The DDS states that these positions are needed to develop and provide specialized, therapeutic services to address root causes of antisocial or assaultive behaviors. **These staff would provide the following key assistance:**

- Crisis intervention and intensive training in the areas of anger management, medication management, training for court competency, and vocational skills acquisition;
- Escort assistance for consumers going to court and medical appointments;
- Psychological testing, assessments and therapy;
- Psychotherapy group sessions on substance abuse, victim awareness, interpersonal relationships, group socialization, classroom instruction for teaching consequences of behavior and sexual expression; and
- Physical activities, recreational services, and community re-entry skills.

The DDS states that the therapeutic emphasis for the residence would be acute but short-term in nature. The expectation is that a consumer would move back to the general secure treatment program residents within a one-year period of time, but always striving for less time.

Second, a Clinical Director position is requested to specifically administer the secure treatment program (about 300 consumers). This position is requested due to increased workload attributed to the complexity of the secure treatment program overall, and the anticipated 96-bed expansion planned for Porterville. Presently there is only one Clinical Director who oversees both the general treatment area as well as the secure treatment program.

Specifically, the proposed new Clinical Director position would:

- Manage all the operations and activities necessary to open the proposed Intensive Behavioral Treatment Residence, including development of the residence, hiring and training of staff, the selection of the consumers, and development of the treatment services;
- Oversee program improvements, licensing issues, consumer movement between programs and related matters and
- Prepare for the 96-bed expansion of the secure treatment facility program at Porterville.

Additional Background on New Intensive Behavioral Treatment Residence. The proposed new residence would provide for **up to 30 consumers**. These consumers would be those who have been identified as the most dangerous to the rest of the secured treatment program clients and staff. The DDS states that separating this group of clients will provide safety and precautions for the rest of the secure treatment program. The residence to be used for this purpose is physically separated by a fence from the mainstream of residences within the secure treatment program.

Overall Background on Porterville Developmental Center. Through legislation enacted in 1999, Porterville is the designated DC for admissions of individuals with forensic and penal-code related offenses. A specific program—the secure treatment program—was established for this population at the facility.

Since the inception of the secure treatment program by the DDS, Porterville has become a facility with two distinct programs with different policies and procedures and different modes of treatment and operations. The general treatment area has increasingly aging and fragile consumers and has become more driven by medical and nursing issues. The secure treatment program is receiving more violent and dangerous individuals and has become increasingly more focused on complex legal, judicial and security issues.

There are presently about 300 clients in the secure treatment program. Of these individuals, about 146 have multiple charges against them (such as attempted murder, burglary, drug related crimes, sexual assault, grand theft auto, kidnapping and other crimes), and seven clients have spent time in prison. Clients are usually court-ordered to the facility (i.e., the secure treatment program side).

Subcommittee Staff Recommendation. It is recommended to approve the proposal as requested. A therapeutic program focused on amelioration of high-risk and dangerous behaviors, particularly behaviors that can place other consumers or staff at risk of harm or injury, seems reasonable.

Question. The Subcommittee has requested the DDS to respond to the following question.

1. **DDS, Please** provide a brief summary of the request and why it is needed.

3. Update on the U.S. Department of Justice Review of the DCs

Issue. In a January 4, 2006 letter to Governor Schwarzenegger, the U.S. Department of Justice, pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA), notified California of their findings regarding an on-site inspection of Lanterman Developmental Center (Lanterman).

Specifically, the U.S. DOJ identified numerous conditions and practices at Lanterman that violate the constitutional and federal statutory rights of its residents. **In particular, they found that the residents suffer harm and the risk of harm from the facility's failure to: (1) keep them safe; (2) provide them with adequate training and associated behavioral and mental health services; and (3) provide them with adequate health care.**

In addition, they found that the DDS fails to provide services to certain Lanterman residents in the most integrated setting as required by the Americans with Disabilities Act.

Background on Lanterman DC. Lanterman is located in Pomona and has a consumer population of about 550 residents. The residents' diagnoses range from mild to profound mental retardation. Many of the residents have swallowing disorders, seizure disorders, ambulation issues, or other health care needs. A significant portion of the population is medically complex and requires assistance at mealtime and other frequent monitoring. About 30 percent of the residents have a diagnosis of mental illness and most receive one or more psychotropic medications.

The U.S. DOJ conducted their site review in October 2004.

The DDS states that no settlement agreement is in process.

Subcommittee Staff Recommendation. **No action is necessary at this time.** The existing Budget Bill requires the DDS to report to the Legislature on specific outcomes resulting from citations issued by the Department of Health Services, as well as findings of any other government agency authorized to conduct investigations or surveys of state development centers. This includes the U.S. DOJ investigations. As such, the DDS must *formally* report to the Legislature on these issues.

However it is suggested for the DDS to keep the Subcommittee informed of any key U.S. DOJ issues that arise over the next few months, including the results of any settlement negotiations.

Questions. The Subcommittee has requested the DDS to respond to the following questions.

1. **DDS,** Please provide the Subcommittee with a brief update on the status of the U.S. DOJ's findings and requirements.
2. **DDS,** Please discuss the key changes that have been made at Lanterman to address the findings, as well as changes which are still pending implementation, if any.
3. **DDS,** Is it likely that the U.S. DOJ will be reviewing other Developmental Centers?

4. Restructuring of the Office of Protective Services--Headquarters' & DC Items

Issue. The DDS is proposing an overall increase of \$1.4 million (\$832, 000 General Fund) to fund positions at the DDS Headquarters' and at the Developmental Centers to continue with a restructuring of the Office of Protective Services (OPS) in order to address safety and security issues identified by the state Attorney General's Office (AG's Office) in a 2001 report.

The budget also proposes to redirect 65 positions within the DC appropriation in an effort to clarify roles and responsibilities and to meet civil service requirements. The DDS is also seeking trailer bill legislation which is discussed below.

The DDS commenced with a restructuring of the OPS in 2002 based on the AG's Office report which made numerous recommendations on how the police, fire, and investigative services within the DC system should be fundamentally reconfigured. To commence with this restructuring, the DDS placed existing employees in managerial or supervisory roles on a temporary or acting basis. This was done to temporarily mitigate expenditure increases while addressing identified needs to make changes.

However, the DDS now recognizes that due to issues regarding civil service regulations, as well as the need to establish a permanent structure, budgetary changes are now required to formally reflect how positions are being used and to obtain additional resources.

Specifically, the proposal would do the following:

- **Developmental Centers--\$660,000 and 16 new Positions.** An increase of \$660,000 (\$380,000 General Fund) to support 16 new positions (10 of these are two-year limited-term positions) is requested for the DC system. The 16 new positions would include: (1) 10 two-year limited-term Senior Special Investigators, and (2) 6 permanent Senior Special Investigators. In addition to the proposed increase, the budget request recognizes and applies a redirection of \$503,000 (\$297,000 General Fund) to fund these 16 new positions as shown in the table below.

Table—Summary of Developmental Center Request

| Requested Positions | Total Cost | DDS Redirected Funds | Net Budget Request |
|------------------------------------|----------------------|---------------------------------|-------------------------------|
| 16 new positions (10 limited-term) | \$1.1 million | -\$503,000 | \$660,000 |
| 65 redirected positions | \$4.0 million | -\$4.0 million | 0 |
| TOTALS 81 Positions | \$5.1 million | -\$4.5 million | \$660,000 |

In addition the DDS is **redirecting 65 positions** to formally reflect how these positions are being used. These redirected positions would be from within existing resources. **The DDS states that these redirected positions have historically been redirected from a number of sources that have varied by location (different DCs) and changed over time, but include temporary help, salary savings from difficult-to-recruit classifications, overtime blankets and operating expense savings.**

It should be noted that of these 65 positions, 24 are for security guards at Porterville.

These two adjustments would identify 81 additional positions for the OPS function at the local level (i.e., five DCs and two community facilities) for total resources of about 233 positions (at the local—“field” level). These 81 positions would be used to establish a Special Investigations Section and to restructure the Law Enforcement and Fire Services Branch (See DDS Hand Out).

- **DDS Headquarters’—\$752,000 and 6 new Positions. An increase of \$752,000 (\$452,000 General Fund) is requested to support 6 new, permanent positions.** The requested positions are as follows: (1) a Chief of Protective Services, (2) a Deputy Chief for Law Enforcement, (3) a Supervising Special Investigator II, (4) a Staff Services Manager I, and (5) two Associate Governmental Program Analysts.

The AG’s Office report stated that DDS needed to maintain its own law enforcement division and centralize OPS leadership at the DDS Headquarters. The prior lack of central command and control had resulted in confusing directives and inadequate oversight of investigations. As such, the DDS previously redirected \$503,000 to headquarters for some positions to begin to address these issues. This redirection is proposed to be returned to the DCs (as shown in the table above).

Key functions of the positions are as follows:

- Chief of Protective Services. This position is responsible for establishing and implementing uniform practices consistent with DDS policies and procedures throughout the state and planning, organizing and directing OPS activities. This position has been temporarily filled using retired or contracted law enforcement personnel. DDS proposes to permanently establish the position at the Career Executive Appointment (CEA) II level which has been approved by the State Personnel Board.
- Deputy Chief of Law Enforcement. This is a new position that would be used for the daily supervision and management of the seven OPS field offices at the DCs and community facilities. This position will make recommendations to the Chief relative to the development of policies, procedures and training involving sensitive criminal or administrative investigations of physical and sexual abuse, serious injuries and deaths of consumers, and safety and security risks.
- Supervising Special Investigator II. This new position would be responsible for the daily supervision and management of the administrative and technical support functions including Internal Affairs investigations, Peace Officer background investigations and compliance with the Commission on Peace Officer Standards Training (POST). This position will also supervise the administrative support functions for the OPS, including labor relations, personnel, contracts and budgets.
- Staff Services Manager I. This position is responsible for coordinating training, personnel, labor relations, budget and contract support for the OPS at the seven field offices. They will directly supervise four Associate Governmental Program Analyst positions and a Staff Services Analyst position.

- Associate Governmental Program Analysts (two). One of these AGPA positions would perform a variety of activities associated with personnel, fiscal and contract management. The other position would be used for training and POST compliance functions.
- Proposed Trailer Bill Legislation (See Hand Out). The DDS is seeking statutory change to amend Section 830.3 of the Penal Code to authorize the positions of Chief and Deputy Chief as Peace Officers. This change in law would *not* change the DC policy that prohibits staff from carrying firearms on the grounds.

Background—Office of Protective Services. The DDS Office of Protective Services (OPS) provides all law enforcement services in the DCs and in the two community facilities (Sierra Vista and Canyon Springs), including policy, security, fire protection and investigations into crimes against or harm to consumers , and crimes and administrative investigations involving employees.

Historically, the law enforcement functions within the DDS were decentralized within each DC. Investigators and police officers reported to certain managers, while fire services reported to other managers. Further, none of the managers had professional law enforcement training. According to the DDS, this resulted in limited oversight of law enforcement operations and reliance on poorly trained first-line policy supervisors and investigators.

At the request of Senator Chesbro, the AG’s Office conducted a review of the DDS law enforcement function and issued a detailed report which among other things, made the following recommendations:

- Implement a professional law enforcement structure;
- Provide appropriate resources and equipment to support the structure;
- Address the backlog of pending investigations;
- Increase the number of trained supervisory personnel to support operations;
- Establish public safety policies and conduct ongoing training; and
- Track and analyze data.

In response to the recommendations, the DDS moved to restructure over 200 existing policy, investigation and fire personnel into a centrally-managed public safety function. **The DDS states that to implement the restructure, existing employees were placed in managerial or supervisory roles on temporary or “acting” basis to perform the duties generated by restructuring the law enforcement function. This continued for three years.**

Legislative Analyst’s Office Recommendation. With respect to the 81 positions (i.e., 16 new and 65 redirected) for the DCs, the LAO recommends for the Legislature to not act on this proposal until the Lanterman DC CRIPA investigation has been resolved. The LAO contends that the U.S. DOJ may require the DDS to make changes to the OPS function and as such, this budget request maybe premature. It should be noted that the LAO did *not* take issue with the workload requirements or the level of the staff requested.

Regarding the DDS request for the 6 positions at Headquarters, the LAO recommends approval of only two—the Chief and Deputy Chief positions. The LAO states that the

additional four requested positions go beyond what they believe to be necessary to establish a functional chain of command.

Subcommittee Staff Recommendation. The DDS is proposing these changes in order to respond to the AG's Office recommendations, as well as to more comprehensively address concerns regarding data tracking and analysis, the development of public safety policies, and implementation of more comprehensive employee training.

It is recommended to: **(1)** Approve the 81 positions (i.e., 16 new with 10 being two-year limited-term, and 65 redirected) for the DCs; **(2)** Approve the 6 new positions at DDS Headquarters but to make the two Associate Governmental Program Analyst positions two-year limited-term appointments; and **(3)** Adopt the proposed trailer bill language as provided.

Questions. The Subcommittee has requested the DDS to respond to the following question.

1. **DDS,** Please provide a brief summary of the request including a description of the revised structure to be used for both the DCs and Headquarters' Office of Protective Services.

5. Unfunded Health Care Expenditures Equates to Unallocated Reduction

Issue. Based on information obtained through the Department of Finance (DOF) by Senate Subcommittee No. 4, there are increases in the cost for providing health care services to state employees employed in specific personnel classifications, including many classifications employed at the Developmental Centers.

As part of the decision making process by the DOF, funds were not provided to departments for this increased cost. *Instead*, the DOF provided increased funding for operating expenses and equipment (often referred to as a “price” adjustment).

The estimated *unfunded* cost for the health care expenses is about \$6.2 million (\$3.1 million General Fund) for the Developmental Centers. The amount of funding provided for the “price” increase is about \$3.8 million (\$1.9 million General Fund). **Therefore a net decrease of \$2.4 million actually occurs. In essence, this becomes an unallocated reduction because the DDS will need to make other adjustments to fund the increased health care costs.**

Subcommittee Staff Comment. Any form of “unallocated” reductions for 24-hour facilities, particularly facilities which serve people with intensive medical and behavioral needs, are simply unconscionable.

Most expenditures at the DCs consist of three core elements—(1) professional staff to provide services and supports to consumers, (2) operating expenses for food, clothing, medications and daily living commodities, and (3) plant operations, including the residences, kitchens and recreational areas. **As such, under funding increased labor expenditures such as health care costs, or not providing cost adjustments for operating expenditures, means that consumers are potentially placed at risk or harm.** Further, the state also places at risk the federal financial

participation available through the Medi-Cal Program if a DC cannot meet standard certification requirements (which often pertain to staffing issues or placing consumers at risk).

Questions. The Subcommittee has requested the DOF to respond to the following question.

1. **DOF**, Is any consideration being made by the Administration to fund the increased health care expenditures? What about exempting 24-hour facilities from unallocated reductions?

6. Recruitment and Retention Differentials Effecting Developmental Centers **(Informational)**

Issue. Both the CA Department of Corrections and Rehabilitation (CDCR), and the Department of Mental Health (DMH) have recently received “recruitment and retention (“R & R”) pay differentials for physicians and surgeons and specific nursing classifications. **These salary differentials appear to be having a ripple effect on the operations of the Developmental Centers (DCs). Specifically, the DDS is in the process of collecting data regarding increased staff vacancies in regions of the state that have either a State Hospital or state prison in the vicinity of a DC. At this time it appears that Sonoma DC, Porterville DC, and Sierra Vista (located in Yuba City) and possibly Canyon Springs (located in Cathedral City) may be having difficulties recruiting and maintaining staff.**

Background on Recent R & R Actions. In December 2005, the U.S. District Court (*Plata v. Schwarzenegger*) ordered the implementation of R & R differentials for physicians and surgeons and specific nursing classifications at all 33 state prisons to address high vacancy rates for these staff and inadequate health care services.

The Plata court order did not account for any consequences of the ruling upon other state agencies providing 24-hour care, including the DMH, DDS, and the Department of Veteran’s Affairs.

As discussed in the Subcommittee’s March 6th hearing regarding the DMH’s State Hospitals, the Administration requested and the Joint Legislative Budget Committee (JLBC) approved, a current-year adjustment to provide R & R’s for the State Hospital employees (i.e., equivalent staff for expenditures of \$12.2 million). This was done because the DMH was experiencing an inability to recruit new candidates to fill vacant positions and was losing existing staff to the CDCR due to the level of salary compensation.

Subcommittee Staff Recommendation. The DDS should keep the Subcommittee informed regarding concerns with recruitment and retention issues involving DC staffing needs, and provide more detailed information when it becomes available.

Question. The Subcommittee has requested the DDS to respond to the following question.

1. **DDS**, Please present the information you have available regarding R & R concerns.

COMMUNITY BASED SERVICES

Background on Regional Centers and Consumer Trends

The DDS contracts with 21 *not-for-profit* Regional Centers (RCs) which have designated catchment areas for service coverage throughout the state. The RCs are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers.

RCs also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.

The DDS notes certain demographics and key factors are appearing in the consumer population which the RCs serve including the following:

- Significant increase in the diagnosed cases of autism, the causes of which are not fully understood.
- Over 57 percent of the RC population is under 22 years of age. It is likely that medical professionals are identifying more developmentally disabled individuals at an earlier age.
- Over 70 percent of consumers now reside in the home of a parent or guardian, as compared to only 64 percent in 1994.
- Decreases continued in the proportion of consumers living in community care settings (i.e., out-of-home placement) and State Developmental Centers. Specifically, about 13 percent of consumers now live in a community care setting compared to 18 percent in 1994.
- Hispanics remain the fastest growing segment of the population increasing from about 24 percent in 1994 to about 32 percent in 2005. Over this same period, the white segment of the population decreased from 49 percent to about 42 percent.
- Improved medical care and technology has increased life expectancies for individuals with developmental disabilities.

Summary of Funding

The budget proposes expenditures of \$3.1 billion (\$2 billion General Fund) for community-based services, provided via the RCs, to serve a total of 216,565 consumers living in the community. This funding level includes \$485.9 million for RC operations and \$2.6 billion for the purchase of services, including funds for the Early Start Program and habilitation services.

The budget reflects a net overall increase of \$215.7 million (\$159.8 million General Fund), or 7.5 percent, over the revised current year. The General Fund adjustment represents an increase of 8.7 percent.

Most of the increase is attributable to (1) an increase in the based utilization of services by consumers, (2) a three percent rate increase for certain programs, (3) an increase of 8,345 consumers for 2006-07, and (4) an increase for RC operations. Of the \$215.7 million (total funds) proposed net increase, \$115.8 million (total funds) is needed to support population increases and service utilization needs.

Summary of Key Federal Fund Sources (Waiver and others)

Over the years the DDS has been successful in attaining the receipt of federal funds for community-based services. Unlike the state's Developmental Centers, which receive a 50 percent federal match for every \$1 dollar of state General Fund expenditures, community-based services rely primarily on state General Fund support, along with certain limited federal funds, most notably the Home and Community-Based Waiver.

Under the Home and Community-Based (HCB) Waiver, the DDS is able to obtain federal funds for certain eligible consumers who are receiving RC-purchased services. Without these services, these eligible consumers would require the level-of-care provided in an Intermediate Care Facility. Enrollment in this Waiver is capped by the federal government at 75,000 eligible individuals as of October 1, 2006. The budget assumes receipt of about \$696 million in federal funds from this source in 2006-07. These federal funds do require a state General Fund match (i.e., the match is 50/50 percent).

The budget also includes \$203.9 million in federal Title XX Block Grant funds (i.e., Temporary Assistance for Needy Families) for RC services provided to consumers. These funds are available for RC expenditures for children under age 18 whose family income is less than 200 percent of federal poverty.

Another key area of federal funding is the Targeted Case Management Program. This program provides federal Medicaid (Medi-Cal) matching funds for case management services provided by RCs for specific consumer groups. There are about 133,000 Medi-Cal eligible persons in the RC system. The budget assumes receipt of about \$251.7 million (federal funds) for this purpose.

B. ITEMS FOR DISCUSSION

1. Agnews Developmental Center Closure—DC Resources & Community Resources ***(See Hand Out)***

Issue. The Governor's budget reflects various adjustments related to the Administration's closure of the Agnews DC. These adjustments are reflected in both the Developmental Center item, as well as in the Regional Center item of the Budget Bill.

The proposed adjustments are consistent with the Administration's updated plan provided to the Legislature on January 10, 2006, as required by statute. The Administration will be updating the Agnews plan at the time of the Governor's May Revision. As such, there will be changes to this January budget proposal. However the principal components of the Agnews plan will remain the same. No new policy proposals are proposed. No trailer bill language is being requested.

As shown in the Hand Out (second page), the budget proposes a *net increase* of \$23.5 million (\$15.9 million General Fund) over the revised current year for the closure of Agnews. This consists of a *decrease* of \$6 million (\$4.2 million General Fund) in the Developmental Centers to reflect the decline in the resident population, and an *increase* of \$29.5 million (\$20.2 million General Fund) for the Regional Centers. The adjustment in the Regional Centers is to provide for the placement and transition of Agnews residents into the community and the use of state employees from Agnews to provide services in the community.

It should be noted that the adjustments in the Developmental Center item *are contingent* upon the development of resources in the community to provide for the transition of consumers. As such, the May Revision will reflect adjustments as needed.

The net increase of \$23.5 million (\$15.9 million General Fund) for 2006-07 includes the following *key* adjustments:

- Reduces the Agnews Developmental Center baseline budget by \$12.6 million (total funds) for total expenditures of \$79.8 million in 2006-07.
- Provides \$9.2 million (total funds) to fund 100 state employees from Agnews to work with consumers in community-settings. This reflects an increase of \$6.9 million (total funds) over the revised current year. This proposal is consistent with statutory changes enacted last year.
- Provides a total of \$42.1 million (total funds) for the RCs, including expenditures for the Purchase of Services and Operations, for community placement purposes, including program start-up, and consumer assessment and placement. This reflects an increase of \$17.9 million (total funds) over the revised current year.
- Provides a total of \$6.6 million (total funds) for other DC staff expenditures related to staff transition and training, consumer escort and assistance, and other related closure activities.
- Reduces by \$13.2 million (total funds) to account for placements into the community. Most of these savings are attributable to reduced state staffing costs due to the closure.

- Reduces by \$2.2 million (total funds) to capture the difference in costs of consumers living at Agnews and being transferred to another Developmental Center. This reflects the fact that Agnew's residential costs are higher than any other Developmental Center.
- Provides an increase of \$365,000 for the preparation of Sonoma Developmental Center to receive up to 50 consumers from Agnews.
- Provides an increase of \$525,000 for costs associated with relocating up to 50 consumers to DCs other than Sonoma.

Generally, the RC Operations resources are used for the following purposes:

- Resource Development: These are the positions needed to develop community living arrangements for consumers moving from Agnews into the community.
- Assessment: These are the positions needed to identify Agnew's residents ready for placement in community living arrangements (proper comprehensive assessment is critical).
- Placement: These are the positions used for placement activities (often more complex, unique placements are required).
- Crisis Service Teams: These are the positions for crisis services which include a behavioral team, a clinical team and an emergency response team.
- State Employees in Community: Clinical and Quality Assurance Teams comprised of Agnew's employees will be established to resolve crises, provide direct care staffing, train and provide technical assistance to new providers, collaborate with Regional Centers on enhanced quality assurance initiatives, and if necessary ("last resort"), directly operate a residential facility until such time as a private provider can be located. These employees have had long-term relationships with the transitioning consumers. These expenditures are being funded in the Developmental Center item.
- Consultant Services—Housing: The DDS is using consultant services from the Department of Housing and Community Development, California Housing Finance Agency and others to implement the requirements of AB 2100.

Generally, the RC Purchase of Services (POS) resources are used for the following purposes:

- Resource Development: These expenditures are related to development of new facilities, new programs, and program expansion. This also includes housing corporation costs associated with increasing the stock of affordable Bay Area housing through purchase, rehabilitation or construction of real property.
- Assessment: This is individualized and comprehensive identification of consumer supports and services needs for stabilized community living.
- Placement: This is the phase-in of consumers to community settings based on consumer-specific information.
- Deflection: This is the placement POS for residential expenditures of facilities developed with current-year start-up to deflect admission from Agnews. These facilities are developed based on a comprehensive analysis of Developmental Center admission data, current trends in needed services specific to the Regional Center catchment area, and other local aspects.

Additional Background Information—Agnews DC Closure is Different. The Agnews DC Plan closure is different than the two most recent closures of Developmental Centers—Stockton DC in 1996 and Camarillo DC in 1997—both of which resulted in the transfer of large numbers of individuals to other state-operated facilities. In contrast, the Agnews Plan relies on the development of an improved and expanded community service delivery system in the Bay Area that will enable Agnew’s residents to transition and remain in their home communities. The DDS proposes to achieve this by:

- Establishing a permanent stock of housing dedicated to serving individuals with developmental disabilities.
- Establishing new residential service models for the care of developmentally disabled adults.
- Utilizing Agnew’s state employees on a transitional basis in community settings to augment and enhance services including health care, clinical services and quality assurance.
- Implementing a Quality Management System (QMS) that focuses on assuring that quality services and supports are available in the community.

The Plan provides for the development of new resources and innovative programs. **Key components are as follows:**

Housing Development: Through the use of \$11.1 million (one-time) from the Budget Act of 2004 and the passage of AB 2100, Statutes of 2004, the DDS proposes to authorize the Bay Area RCs to fund predevelopment costs (escrow deposit, environmental impact, various fees and related matters) to establish a permanent stock of housing for individuals with developmental disabilities transitioning from Agnews. The Bay Area RCs will contract with a local non-profit housing coalition to administer the fund. Housing will be developed using a lease/purchase/donate model facilitated by the Bay Area RCs and the local housing coalition.

Family Teaching Home Model: AB 2100, Statutes of 2004, also added a new “Family Teaching Home” model to the list of residential living options. This new model is designed to support up to three adults with developmental disabilities by having a “teaching family” living next door (usually using a duplex). The teaching family manages the individuals’ home and provides direct support when needed. Wrap-around services, such as work and day program supports, are also part of this model.

Bay Area Unified Community Placement Plan. The three Bay Area RCs (Golden Gate, San Andreas, and East Bay) have a unified plan for community placement whereby extensive individual assessment and person-centered planning is conducted. A regional approach (i.e., the greater Bay Area) is then taken for the planning and development of services and supports for individuals with developmental disabilities.

Pilot Projects for Adults with Special Health Care Needs. SB 962 (Chesbro), Statutes of 2005, directed DDS to establish a new pilot residential project designed for individuals with special health care needs and intensive support needs. This pilot is a joint venture with the Department of Social Services (DSS) and would serve up to 120 adults, with no more than five adults residing in each facility. This pilot is to be limited to individuals currently residing at Agnews.

Use of State Employees to Facilitate Transition. Existing statute enables the DDS to use up to 200 Agnew's employees to augment and enhance services provided in the community. These state employees will be used to provide direct care, resolve crises, train and provide technical assistance to new providers, and other functions. The employees will operate under special contracts between the state and either an RC or service provider. These arrangements would continue through 2009.

Subcommittee Staff Comment and Recommendation: It is recommended to adopt the Administration's adjustments for the DCs and RCs as proposed, pending receipt of the May Revision. No new policy changes are proposed and the fiscal assumptions are consistent with agreements adopted in the Budget Act of 2005.

Questions. The Subcommittee has requested the DDS to respond to the following questions.

1. **DDS,** Please provide **an update on the progress** of developing the community-based resources, including housing, Family Teaching Homes, the pilot projects for individuals with special health care needs, and the use of state employees in the community. **What key implementation concerns are arising?**
2. **DDS,** Is it likely that the Agnews DC closure date of June 30, 2007 will need to be modified?
3. **DDS,** Please provide a brief summary of the activities commencing at Agnews in preparation of closure, as they pertain to the budget request.

2. Autistic Spectrum Disorder Initiative (ASD) Expansion

Issue. The DDS is proposing to dedicate additional resources within both the Regional Centers and DDS Headquarters to more comprehensively meet the needs of consumers with Autistic Spectrum Disorders (ASD). **The proposed increase is a total of about \$2.7 million (\$2.660 million General Fund).** The purpose of this proposal is to (1) increase system capacity by expanding successful service models for ASD, (2) ensure quality of treatment services, and (3) disseminate accurate and meaningful information regarding ASD.

Specifically, these funds are proposed to be used as follows:

- ***Regional Centers--\$2.6 million.*** An increase of about \$2.6 million (General Fund) is proposed to fund RC Operations to provide staff resources and to fund specified projects. **With respect to RC staff resources, an increase of \$1.8 million is proposed to provide two new positions—an ASD Clinical Specialist and an ASD Program Coordinator—at each of the 21 RCs. This level of funding assumes that the positions will begin as of January 1, 2007 (i.e., half-year funding is provided).**

The RC Clinical Specialist position would perform the following key functions:

- Assist RC case managers with clinical referrals and advise intake units on best practice guidelines for the screening, diagnosis and assessment of individuals with ASD;
- Coordinate and manage the clinical application of best practice guidelines;
- Provide technical assistance to local clinicians and service providers specializing in ASD; and
- Participate in the ASD Learning Collaborative. (This project supports the efforts of RCs—nine presently—to join with other public agencies, service providers and advocacy groups to implement best practice recommendations for the screening and diagnosis of persons with ASD.)

The RC Program Coordinator would perform the following key functions:

- Serve as the primary point of contact at the RCs on ASD issues and be the critical link between families, and clinical professionals;
- Coordinate referrals to local clinicians and service providers specializing in ASD;
- Create a statewide network and exchange information on best practice and its practical application throughout the RC intake and service coordination process;
- Provide support to RC case managers;
- Serve as the liaisons to the local ASD Resource Center; and
- Advise other local agencies such as schools, mental health agencies, child protective services and local law enforcement on ASD issues to ensure communication and service continuity.

Of the remaining amount, \$780,000 is *one-time only* and would be used as follows:

(1) \$80,000 to provide training to clinicians and other professionals to implement best practice guidelines for screening, diagnosis and treatment; **(2)** \$350,000 to develop best practice guidelines for treatment and intervention; **(3)** \$250,000 to develop best practice guidelines for

interagency collaboration; and (4) \$100,000 to establish state and regional ASD Resource Centers.

- *DDS Headquarters--\$102,000 (\$62,000 General Fund).* An increase of \$102,000 (total funds) is requested to fund a new Senior Psychologist position who would, among other things, do the following:
 - Serve as a clinical resource to recruit and communicate with ASD experts in the field;
 - Review ASD documents to assure clinical accuracy; and
 - Identify and promote best practices for ASD;
 - Manage clinical materials pertaining to ASD for the field;

Presently the DDS Office of Clinical Services has a Senior Psychologist position. However the DDS contends that due to the need revolving around ASD issues, other work regarding significant system issues surrounding persons with mental retardation, Down Syndrome, and dual diagnosis (mental illness and developmental disabilities), an additional position to solely focus on ASD issues is warranted.

Background on Expansion of the Autistic Spectrum Disorder Initiative. ASD is a lifelong and substantially disabling neurological disorder that typically results in significant behavioral challenges, delays in social and emotional development, and cognitive challenges to the extent that judgment and self-care are limited. Individual treatment and intervention programs, with an array of specific treatments, must be constructed for each person with ASD.

RCs are presently working without the benefit of best practice guidelines for treatment and intervention. **The DDS notes that RCs and other service agencies are in need of these recommendations, as well as training, resource tools, and systematic mechanisms for collaboration to serve consumers with ASD and their families.** The diagnosis and assessment of individuals, and the intervention program management process, necessitates greater expertise and the collaboration of trained and knowledgeable staff.

The DDS states that about \$210 million (total funds) is being expended annually to serve consumers with ASD. As the number of families affected by ASD increases, more will be searching for promising approaches to treatment and intervention. Since 1998, California's ASD caseload has doubled and this acceleration is predicted to continue to increase service needs and costs.

The DDS has already completed various activities regarding ASD over the years. These have included the following:

- Initiated a pilot ASD Learning Collaborative for RCs, special education, health providers and community-based professionals that serve the RCs. Nine RCs are now participating. This project supports the collaborative efforts of RCs to join with other public agencies, service providers and advocacy groups to implement best practice recommendations for screening and diagnosis of persons with ASD.
- Released two reports—in 1999 and 2003—regarding Autism in California to better inform families, RCs, researchers and policy-makers about ASD.

- Established a Director's Advisory Committee on ASD in 2001.
- Published a 180-page document regarding Best Practice Guidelines for Screening, Diagnosis and Assessment.
- Joined with UC Davis Medical Center to implement a rural telemedicine project to enhance mental health services for children with ASD in rural areas.

Subcommittee Staff Recommendation. It is recommended to approve the request. Based on the need to identify evidenced based resource development and the dramatic growth in the ASD population for the past several years, the request appears reasonable and warranted.

Questions. The Subcommittee has requested the DDS to respond to the following questions.

1. **DDS,** Please provide a summary of the proposal and why it is needed.

3. CA Developmental Disabilities Information System--\$50 million Loss in Federal Funds

Issues: Significant issues continue to swirl within the Administration regarding the implementation of the California Developmental Disabilities Information System (CADDIS). The lack of implementation has led to the loss of at least \$50 million in federal funds. Additional resources—potentially tens of millions in General Fund support—are likely to be needed to remedy the limitations of CADDIS or to construct an entirely new system. **The ability of the Regional Center system and the DDS to conduct core aspects of program operations, such as case management, provider reimbursement, and overall fiscal monitoring are directly affected by the failure to implement CADDIS or a similar information system.**

Due to continued delays in implementation, **California will lose over \$50 million in federal funds over the next two-years (at least \$19.9 million in 2005-06 and \$31.8 million in 2006-07).** The receipt of these federal funds could have been used to off-set General Fund support.

Transportation services were added to the state's Home and Community-Based Waiver two years ago. Through this Waiver, the state is able to claim federal matching funds (50 percent level) for certain services provided to individuals with developmental disabilities. The loss in federal funds is because CADDIS is not operational. Specifically, CADDIS was supposed to be fully functional to capture this transportation billing information. However since it is unable to, the state continues to fund transportation services at 100 percent General Fund support.

The failure to implement CADDIS is also affecting implementation of the Self-Directed Services Model which was approved for expansion in the Budget Act of 2005. Under this model, consumers can choose services and supports from a comprehensive menu of options using a finite budget (90 percent of historical aggregate expenditures). **However expansion of this program has been linked to the roll-out of CADDIS. As such, the Self-Directed Services Model has been delayed in the current year.**

Department of Finance Required to Report to the Legislature on CADDIS via the Budget Act of 2005. At the request of the Department of Finance, and as agreed to by the Legislature, Budget Act Language was included in the Budget Act of 2005 to require **the DOF to report to the Legislature by October 2005 on its strategy to resolve problems on the CADDIS Project.** In addition, a \$2 million (General Fund) augmentation was provided to conduct the independent project review (at the request of the Administration).

The DOF strategy was to include, but not be limited to, (1) identification of problems or issues on the project, and (2) actions, costs and timeframes broken out by budget year and future years to correct those problems or issues. The DOF was also to provide an "independent project review report" (done by a consultant.)

In October 2005 an independent project review report (prepared by "Information Integration Innovation & Associates, Inc.") was provided to the Legislature. However the DOF analysis of the report, as well as a strategy for resolution of problems has not yet been provided and it is unknown at this time when it may be provided.

It should be noted that the independent project review did identify serious concerns about completing CADDIS. The report did however recommend that CADDIS be continued as a project. However, to be successful, CADDIS has many more obstacles to traverse.

Continued Lack of Progress by Administration (See Hand Out). In the most recent Monthly Status Report provided to the Legislature by the CA Health and Human Services Agency (CHHS), dated March 13, 2006, Equanim Technologies (provides independent project oversight) states that significant activities on the part of the DOF and CHHS Agency are required to determine project direction (page 1 of report). **Specifically, Equanim states that due to the uncertainty of the project direction and the current state of issues, a number of the project deliverables are awaiting approval until resolution or agreement on the issues.**

Page 5 of the report notes that there are presently *three categories* of system design concerns as follows:

- **Out of Scope from Current Contract.** There are **currently 59** of these which were classified in December 2005 as out-of-scope of the current contract (DDS with Deloitte Consulting). These issues are considered “critical to go live” (i.e., to fully operate system). These issues were provided to the DOF as part of a “go-forward plan” submitted by the DDS (which is still being discussed within the Administration).
- **No Cost.** There are **currently 72 issues classified as “no-cost” that Deloitte Consulting has agreed to resolve at no additional cost to the state.** According to the March Report, ten of the issues have been resolved and one of them is a duplicate. **However, the timeframe for resolving the remaining no cost design issues has not been established.**
- **Other Categories.** The remaining design issues represent everything else found to be a design issue. This includes lower priority issues which could be completed as system enhancements at a later date, as well as issues that are still being discussed to determine categorization and responsibility.

In their closing comments, Equanim Technologies offers recommendations to the Administration, including those listed below. It should also be noted that the Equanim contracted hours for certain project oversight responsibilities is ending in mid-March (See page 6 of report).

- Complete review and classification of all reported issues and annotate their classifications.
- DDS and Deloitte need to agree on the classification, definitions, and terminology of the issues in order to reach resolution of the issues.
- Confirm whether the project scope is correctly established and communicate this to the involved parties (the RCs, stakeholders and others).
- Track the progress of the no cost issues and validate that the work is being appropriately handled as “no cost” to the state.

Summary of Key Concerns from RCs. A CADDIS prototype has been in a testing phase at two Regional Centers (i.e., Inland and Valley Mountain). Various issues have been shared with the DDS regarding the testing and potential design changes. **In summary, key concerns are as follows:**

- The ability to pay vendors in a timely manner (system speed, additional processing steps, entry of attendance data) is a key problem;
- Ownership of the source code (not clear at this time if DDS owns or not) is critical for any future enhancements or changes;
- CADDIS is complex and business practices at the RCs will need to change in order to operate appropriately and efficiently;
- The report writer capabilities of CADDIS need to be improved; and
- If CADDIS proceeds, parallel testing (operating CADDIS and the legacy system) needs to be conducted to ensure accurate operations.

Additional Background—What is CADDIS? The California Developmental Disabilities Information System (CADDIS) **is an integrated case management and fiscal accounting system that is intended to replace two existing systems--the Uniform Fiscal System (UFS) and the San Diego Information System (SANDIS). Both of these systems were developed and implemented over 20 years ago.**

CADDIS is needed in order to obtain more accurate and necessary consumer data regarding needs and services, and in order to enhance the receipt of federal funds by meeting federal reporting requirements.

Since March 2002, DDS has contracted with Deloitte Consulting to develop and implement CADDIS. In the Budget Act of 2003, it was assumed that CADDIS would be operational by June 2004. In the Budget Act of 2004, this date was pushed back to December 2004. In the Budget Act of 2005, this date was pushed back to **May 2006. Now it is unknown if CADDIS will ever be implemented.**

The DDS notes that Deloitte has replaced its project management team and is in the process of expediting its work. The DDS is also in negotiations with the DOF (information technology section) and Deloitte regarding what actions can be taken to remedy the delays and improve the overall project.

Subcommittee Staff Comment. Subcommittee staff has requested a critical path chart from the Administration regarding CADDIS implementation, as well as a fiscal summary regarding options for problem resolution. The Legislative Analyst's Office has also made additional requests in an effort to better ascertain what options are available for problem resolution. **However, no comprehensive information has been forthcoming from the Administration, though the DDS has responded to issues regarding system progress and the pilot testing.** We have been advised by the Administration that the status of the CADDIS project is under review. But that is all.

Questions (continue to the next page):

1. **DDS, What is the status of CADDIS implementation?**

2. **DDS, What alternatives are there to CADDIS implementation and have cost analyses been conducted?**
3. **DDS, When will the Administration be providing information to the Legislature ?**
4. **DDS, Is there any other way that a federal match can be obtained for the transportation services, since these have been approved for reimbursement?**
5. **DDS, Can the expansion of the Self Directed Services Model proceed even though CADDIS is delayed?**

4. Governor Proposes Continuing Cost Containment From Prior Budget Acts ***(See Hand Outs)***

Issue: The Administration proposes to continue several cost containment actions that were enacted as part of the Budget Acts of 2003, 2004 and 2005. **These actions include the following:**

- **Delay in Assessment (RC operations) (-\$4,500,000):** Through the Budget Act of 2002, trailer bill language was adopted to extend the amount of time allowed for the Regional Center's to conduct assessment of new consumers from 60 days to 120 days following the initial intake. **The Governor proposes to continue this extension through 2006-07 through trailer bill language. This is the same language as used in previous years.**
- **Non-Community Placement Start-Up Suspension (-\$6 million):** Under this proposal, a Regional Center may not expend any Purchase of Services funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances, and the DDS has granted authorization for the expenditure. **The Administration's proposed trailer bill language would continue this freeze through 2006-07.**
- **Elimination of Pass Through to Community-Care Facilities (-\$4.3 million):** The SSI/SSP cost-of-living-adjustment that is paid to Community Care Facilities by the federal government is being used to off-set General Fund expenditures for these services for savings of \$4.3 million (\$2.6 million General Fund). (It should be noted that a 3 percent rate increase is being provided to CCFs as discussed below.)

Other cost containment actions which were implemented in prior Budget Acts are in the RC baseline estimate. These include the Family Cost Participation Program, previous unallocated reductions and an adjustment to the case manager to consumer caseload ratio change (i.e., from one manager to 62 consumers to the revised ratio of one manager to 66 consumers which is in effect until June 30, 2007).

Subcommittee Staff Recommendation: It is **recommended to continue the above cost containment items as proposed by the Governor, pending the receipt of the May Revision.** The longer period for the RCs to conduct intake and assessment activities though not ideal, has been manageable.

With respect to the startup of new programs, funding would be provided to protect consumer's health and safety or to provide for other extraordinary circumstances as approved by the DDS. Again, though not ideal, core services and supports have been maintained.

Questions: The Subcommittee has requested the DDS to respond to the following questions.

1. **DDS,** Please briefly describe the proposal and why the Administration wants their continuation into the budget year.

5. Governor's RC Contract Language for Expanded Cost Containment (See Hand Out)

Issue. The Governor is proposing substantial policy changes by modifying the state's contract with the Regional Centers (all 21). **This administrative action is being proposed in lieu of statutory changes via trailer bill language since the Legislature has rejected similar proposals for the past four years.**

The budget proposes two adjustments to reflect this proposal. First, the budget proposes an augmentation of \$7.6 million General Fund to expand RC Operations related to controlling consumer's Purchase of Services expenditures for services and supports. Specifically, \$6 million of this augmentation would be **used to hire 65 positions**, with the remaining amount being used for administrative purposes, including office rent and mediation services for dispute resolutions (i.e., due to increased disputes).

Second, it assumes a reduction of \$14.3 million (\$10.6 million General Fund) for the Purchase of Services by having the RCs apply new restrictions on consumers at the time of their Individual Program Plan (IPP) development or scheduled review. An individual's IPP is to be reviewed no less than once every three years. As such, the budget assumes that one-third of the consumer's would have their plans reviewed each year. **As noted in the table below, full implementation would be achieved in 2008-09.**

Table: Summary of Governor's Reduction's to RC Purchase of Services

| Fiscal Year and Cumulative Effect | Reduction To Services (Total Funds) | Proposed General Fund Savings |
|---|--|--|
| 2006-07 One-third of population is reviewed. | \$14.3 million | \$10.6 million |
| 2007-08 Continue 2006-07 savings and review next one-third of population. | \$28.6 million | \$21.1 million |
| 2008-09 Continue 2006-07 and 2007-08 savings and review next one-third of population. | \$42.9 million | \$31.7 million |

The Governor's proposed Purchase Of Services requirements and their anticipated component savings are as follows:

- **1. Vendor Selection Based On Lowest Cost:** The cost of providing services by different vendors, if available, would be reviewed by an RC and the least costly vendor who is able to meet the consumer's needs, as identified in the consumer's IPP, would be selected. This provision is assumed to save \$25.4 million (\$18.4 million General Fund) on an annually basis.
- **2. Statement of RC Services:** RCs would annually provide the consumer or their parent/guardian a statement of RC purchased services and supports. This statement would include the type, unit, and cost of the services and supports. This provision of the guidelines is

intended to serve as a validation that the described services and supports are indeed being provided to the consumer by the designated vendor. This guideline is intended to save \$6.4 million (\$4.6 million General Fund) annually when fully implemented.

- 3. Directs RCs to Adhere to Existing Laws and Regulations In Purchasing Services: RCs would be directed to establish internal processes to ensure that (1) their staff is following all laws and regulations when purchasing services and supports for consumers, and (2) other services, such as generic services provided by other agencies in the community, are pursued and used prior to authorizing the expenditure of RC funds for consumers. It is anticipated that \$6.4 million (\$4.6 million General Fund) in savings would be obtained annually when fully implemented.
- 4. Services to a Minor Child: Under the Governor's proposal, legislation would be enacted to require RCs to take into account the family's responsibility for providing similar services to a minor child without disabilities when determining which services or supports would be purchased by the RC for the child. It is assumed that \$2.7 million (\$2.4 million General Fund) would be achieved annually when fully implemented.
- 5. RC Clinical Review: RCs would be required to have a clinician review all requests for certain services and supports prior to the RC authorizing their purchase for the consumer. This review would pertain to certain supplemental program supports, assistive technology and environmental adaptations, behavioral services, specialized medical or dental services, and therapeutic services. The Administration assumes savings of \$1 million (\$800,000 General Fund) annually when fully implemented.
- 6. Use of Group Modality: RCs would be directed to give preference for purchasing a service or support using a group modality, in lieu of an individual intervention, if a consumer's needs, as identified in their IPP, could be met using a group modality for the following services: Behavioral Services, Social and Recreation Activities, and Non-Medical Therapy Services. This provision is assumed to save about \$1 million (\$885,000 General Fund) annually when fully implemented.

Background—Individualized Program Plan (IPP): The provision of services and supports to consumers is coordinated through the Individualized Program Plan (IPP). The IPP is prepared jointly by an interdisciplinary team consisting of the consumer, parent/guardian/conservator, persons who have important roles in evaluating or assisting the consumer, and representatives from the Regional Center and/or state Developmental Center. Clinicians or others are to be involved in the IPP process when needed to complete the IPP.

Services included in the consumer's IPP are considered to be entitlements (court ruling).

In addition, as recognized in the Lanterman Act, differences (to certain degrees) may occur across communities (Regional Center catchment areas) to reflect the individual needs of the consumers, the diversity of the regions which are being served, the availability and types of services overall, access to "generic" services (i.e., services provided by other public agencies which are similar in charter to those provided through a Regional Center), and many other factors. This is intended to be reflected in the IPP process.

Constituency Concerns: The Subcommittee is in receipt of numerous letters opposing the Governor's additional cost containment strategies. Of particular concern is: (1) the "assault" on the IPP process; (2) the belief that the proposals violate federal Medicaid "freedom of choice" protections provided under the Home and Community-Based Waiver, and (3) the belief that the state's quality assurance obligations under the Home and Community-Based Waiver would be violated.

It is unclear at this time whether the DDS has existing legal authority to administratively enact all of their proposed changes through contract language. As such any administrative action would most likely result in litigation.

Subcommittee Staff Recommendation. It is recommended **to reject the Governor's proposal.** The net General Fund effect of this action would be an increase of about \$3 million (i.e., eliminate the augmentation of \$7.6 million for RC staff and restore the reduction of \$10.6 million (General Fund) to the Purchase Of Services item. **This proposal has been denied by the Legislature for the past four years. Further, it is likely to result in litigation.**

Questions. The Subcommittee has requested the DDS to respond to the following questions.

1. **DDS,** Please provide a brief summary of the proposal.

6. Three Percent Rate Increase for Specified Providers

Issue. The budget proposes **an increase of \$67.8 million (\$46.1 million General Fund) to provide for a 3 percent rate increase for specified programs for which the DDS sets rates.** These programs include Community Care Facilities, Day Programs, habilitation services programs, respite agencies, voucher respite programs, supported-living, transportation and look-alike Day Programs. These programs have been subject to provider rate freezes for several years.

Services and supports *excluded* from the proposed 3 percent increase are those whose rates are established through the “Schedule of Maximum Allowances” (determined by the DHS under the Medi-Cal Program) and those whose rates are “usual and customary”.

The table below displays each of the categories of service that would receive the three percent rate increase. **Further, the DDS is proposing trailer bill language which would limit any rate increase in 2006-07 to only three percent, including those services under direct contract with RCs, unless it is necessary to protect a consumers’ health or safety.**

| Purchase of Services Provider Category | Total Cost of 3 Percent Rate Increase (2006-07) | General Fund Amount (2006-07) |
|---|--|--|
| Community Care Facilities | \$23.8 million | \$14.1 million |
| Day Programs | \$23.6 million | \$14.3 million |
| Habilitation Services | \$3.7 million | \$2.9 million |
| Transportation | \$5.4 million | \$4.2 million |
| Supported Living | \$7 million | \$4.2 million |
| Look-Alike Day Programs | \$4.8 million | \$3.5 million |
| In-Home Respite | \$3.6 million | \$2.9 million |
| Total | \$67.8 million | \$46.1 million |

The DDS believes that a 3 percent rate increase is needed to maintain continuity of services and promote provide stability. It should be noted that a total of 46 programs have recently closed. The DDS notes that a few technical adjustments will need to be made at the May Revision, including the inclusion of Out-of-Home Respite in the rate increase.

Legislative Analyst’s Office Comment. The LAO believes that policy legislation should be enacted to require the DDS to incorporate measurements of quality and access to specific services into the rate-setting methodologies that it develops for RC services.

Subcommittee Staff Recommendation. It is recommended to adopt the three percent rate increase, *pending the May Revision*, and placeholder trailer bill legislation to provide the rate increase and to freeze payments at the increased level (i.e., no program can receive more than a three percent adjustment as provided). Subcommittee staff is presently working with the Administration to modify the proposed trailer bill language to make it more succinct.

Questions. The Subcommittee has requested the DDS to respond to the following questions.

1. **DDS,** Why was a three percent increase determined (i.e., why not 5 percent or some other percentage)?
2. **DDS,** May additional increases be considered at May Revision?

7. Increased General Fund Costs Due to Delays in ICF-DD Certification by DHS

Issue. Due to delays by the Department of Health Services (DHS) in licensing and certifying Intermediate Care Facilities for the Developmentally Disabled (ICF-DD), the DDS must utilize General Fund resources to fully support these services which are otherwise funded using 50 percent federal funds from the Medi-Cal Program. **As such, an increase of \$2 million (General Fund) is proposed to fund the gap in timing until the DHS conducts the necessary surveys in order for the state to then draw federal Medicaid funds.**

The DDS states that the DHS has been taking from 6 months to one year to certify ICF-DD facilities due to DHS staffing shortages. As such, the DDS must provide funding so individuals with developmental disabilities can remain in new ICF-DD programs pending certification in the Medi-Cal Program. (The ICF-DD programs are state licensed, just not certified for Medi-Cal to receive the federal match.)

Subcommittee Staff Recommendation. It is recommended to (1) adopt placeholder trailer bill language to require the DHS to certify ICF-DD facilities as a priority, and (2) delete the \$2 million (General Fund). The Administration needs to utilize its resources more effectively to ensure that the state is addressing the needs of the Olmstead Decision, the Agnews DC closure, and the prudent use of General Fund resources. Further, the DHS was provided 6 additional positions in 1997 which were suppose to be exclusively dedicated to licensing and certification functions related to facilities that serve consumers.

It should also be noted that the Administration has submitted a proposal to significantly increase the number of staff within the DHS Licensing and Certification Branch. With this proposed increase, it is reasonable to require them to certify ICF-DD facilities as a priority. (This DHS issue will be discussed in a later Subcommittee hearing).

Questions. The Subcommittee has requested the DDS to respond to the following question.

1. **DDS,** Has the DHS provided the department with any further information as to how they can be more responsive in certifying ICF-DD facilities?

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